

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BYRON LEVINGSTON,)	No. C 12-4284 LHK (PR)
)	
Plaintiff,)	ORDER DENYING
)	PLAINTIFF'S MOTION FOR
v.)	RECONSIDERATION
)	
A. HEDGPETH, et al.,)	(Docket No. 41)
)	
Defendants.)	
<hr/>		

Plaintiff, a state prisoner proceeding *pro se*, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. On July 9, 2013, the court granted defendants' motion to revoke plaintiff's in forma pauperis ("IFP") status pursuant to 28 U.S.C. § 1915(g). Plaintiff has filed a motion to refile the complaint, reinstate plaintiff's grant of IFP status, and requested that the court deduct the filing fee from plaintiff's trust account. The court construes plaintiff's motion as a motion for reconsideration. So construed, the motion is denied for the reasons stated below.

Motions for reconsideration should not be frequently made or freely granted; they are not a substitute for appeal or a means of attacking some perceived error of the court. *See Twentieth Century - Fox Film Corp. v. Dunnahoo*, 637 F.2d 1338, 1341 (9th Cir. 1981). "[T]he major grounds that justify reconsideration involve an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice." *Pyramid Lake Paiute Tribe of Indians v. Hodel*, 882 F.2d 364, 369 n.5 (9th Cir. 1989) (quoting

1 *United States v. Desert Gold Mining Co.*, 433 F.2d 713, 715 (9th Cir. 1970)). Rule 60(b)
2 provides for reconsideration where one or more of the following is shown: (1) mistake,
3 inadvertence, surprise or excusable neglect; (2) newly discovered evidence which by due
4 diligence could not have been discovered before the court's decision; (3) fraud by the adverse
5 party; (4) the judgment is void; (5) the judgment has been satisfied; (6) any other reason
6 justifying relief. Fed. R. Civ. P. 60(b); *School Dist. 1J v. ACandS Inc.*, 5 F.3d 1255, 1263 (9th
7 Cir. 1993).

8 Liberally construed, plaintiff does not argue that he should receive reconsideration based
9 on any of the above factors. Accordingly, plaintiff's motion for reconsideration is DENIED.

10 IT IS SO ORDERED.

11 DATED: 10/3/13



LUCY H. KOH
United States District Judge